

RECEIVED

MAY 28 2004

040238

Mailed to: Ms. Robin Sweeney  
EIS Document Manager  
Office of National Transportation  
Office of Civilian Radioactive Waste Management  
U.S. Department of Energy  
1551 Hillshire Drive  
M/S 011  
Las Vegas, NV 89134

PLACED IN U.S. MAIL Wednesday, May 26, 2004 with Proper Postage  
to meet June 1, 2004 Deadline

From: Robin A. Drew  
[REDACTED]  
[REDACTED]  
[REDACTED]

## COMMENTS RE YUCCA MOUNTAIN PROJECT CALIENTE RAIL CORRIDOR EIS SCOPING

### INTRODUCTION

Pursuant to FR 18568, under the subheading "Environmental Issues and Resources To Be Examined":

"To facilitate the scoping process, DOE has identified a preliminary list of issues and environmental resources that it may consider in the Rail Alignment EIS...

[bullet 7]:

"Potential impacts to the general public and workers from radiological exposures during incident-free operations of the rail line in Nevada."

[bullet 8]:

"Potential impacts to the general public and workers from radiological exposures from potential accidents during operations of the rail line in Nevada."

### BACKGROUND

It is my belief that many individuals and organizations currently opposed to the Yucca Mountain Project would experience enormous relief of their fears if all were able to observe daily, as I have, the professionalism and integrity of the women and men who work on the Yucca Mountain Project. *I have simply never seen a higher level of dedication and work ethic in any other workplace in the three decades I have been in the workforce.*

Nevertheless, as I am clear proof, even in a "nuclear culture" accidents happen and injuries result. *All sides of the controversy agree* that if/when nuclear waste is transported from its current locations through states all over the USA to Nevada, accidents will occur and injuries, loss of property and even death are guaranteed to occur.

I offer my comments/concerns because I have heard very little from any party to this controversy, about *plans for addressing those individuals who are guaranteed to become injured by the Yucca Mountain Project*. The injured are certain to include not only persons like myself injured while working on the Project, but also members of the public who may have no idea they are at risk until an accident, and injuries, occur.

At a Senate Field Hearing held here in Las Vegas Nevada March 15, 2004, Senator Harry Reid stated my concerns far better than I will ever be able to put into words. I do not have the exact quote but as I understood it, Senator Reid gave this urgent warning: *"If this is how they treat the people who work on the Yucca Mountain Project, how do you think they will treat the public?"*

I hereby offer my concerns formally about how "they" (the US Dept of Energy, the Yucca Mountain Project, OCRWM, and the variety of for-profit subcontractors) have treated this individual injured by the Yucca Mountain Project, and *offer concerns and predictions based on how I have been treated*. The bases of my predictions are well-documented and I urge the Railroad Subcommittee to contact me for this documentation if there is any question that I have *every reasonable expectation and fear* that members of the public who will be injured by the transportation of nuclear waste to the Yucca Mountain can look forward to *having their lives altered and utterly destroyed*.

## WHAT INDIVIDUALS AND COMMUNITIES ACROSS THE UNITED STATES OF AMERICA WHO ARE INJURED BY THE TRANSPORTATION OF NUCLEAR WASTE TO THE YUCCA MOUNTAIN CAN EXPECT

### 1. THE YUCCA MOUNTAIN PROJECT WILL BEHAVE IN A MANNER THAT CAN BEST BE DESCRIBED AS "HIT AND RUN"

Once an injury has occurred, the individual can expect the Yucca Mountain Project and the US Dept of Energy to quickly distance their organizations from the situation so that the individual is left to cope, completely alone, with for-profit subcontractors such as *insurance companies who are primarily motivated by cutting cost at the expense of our communities and workers to protect their bottom line*.

Unless those administrative bodies who oversee the Yucca Mountain Project develop specific and detailed guidelines in advance describing how the injured shall be treated by the service providers, *there can be no fair, ethical, honest or appropriate outcome expected*.

The Yucca Mountain administration departments and local Project Management team must communicate with the subcontractors as to how the injured should be treated and assure the injured and the public that complete follow through is the utmost urgent priority of the care providers and their management teams.

The Yucca Mountain Project should be monitored by a sub-committee that shall oversee the treatment of the injured to *make sure that the for-profit subcontractors are*

*at least complying with the laws of the state where the injuries occur, and that those health and benefit policies shall equal or exceed federal guidelines and mandates.*

*It will not be enough to make verbal and written assurances. Past performance will be the tangible assurance, either that the Yucca Mountain Project will abandon its responsibilities once injuries occur, or, that the Yucca Mountain Project will take the appropriate and responsible initiative once injuries occur. The documentation demonstrates that at this time the public is assured that after injuries occur, the lives of the injured will be destroyed and the Yucca Mountain Project will not take appropriate responsibility if it takes any responsibility at all.*

One of my concerns is that if somehow the injured are resourceful enough to discover how to contact the Yucca Mountain Project about the way they are being treated, the injured may initially receive assurances that the Yucca Mountain Project will look into the matter, but shortly thereafter the injured will receive a brief letter that looks suspiciously like a one-size-fits-all form letter, stating that the Yucca Mountain Project duly contracted with the appropriate subcontractors who carry the certified levels of insurance and that the responsibility of the Yucca Mountain Project ends at that point.

## **2. AFTER AN INJURY OCCURS, INSURERS WILL AUTOMATICALLY DENY CLAIMS, SIGHT UNSEEN**

When the injured individual contacts the appropriate for-profit subcontractors who were selected by the US Dept of Energy and by the Yucca Mountain Project, and initiates the appropriate claim(s), the injured individual can expect to have the claim automatically denied, sight unseen, via a form letter.

## **3. THE INJURED WILL HAVE NO CHOICE BUT TO RETAIN THE SERVICES OF ATTORNIES, IF ANY ATTORNIES CAN BE FOUND WHO ARE WILLING TO REPRESENT THE INJURED**

The injured individual will have no choice but to retain the services of an attorney. But only if the individual can find an attorney who believes the injury is severe enough to make the case profitable for the attorney who will be, after all, yet another for-profit organization the injured will have to cope with. *The injured individual can therefore expect to be in the peculiar position of needing to be severely-injured-enough that the individual's case is attractive to an attorney.*

This raises another concern I have not heard addressed by any parties in this controversy: *What happens to those individuals injured by the Yucca Mountain Project whose injuries and property loss are not roundly considered to be at disaster and catastrophe and national front-page-headlines levels?*

## **4. FORCED TO RETAIN LEGAL COUNSEL, THE INJURED WILL HAVE TO PAY FOR REPRESENTATION OUT OF THEIR OWN POCKETS**

The injured individual will have no choice but to pay for the services of this attorney from the individual's own pocket. This might be done in the form of a contingency fee paid from the individual's eventual settlement. This means that

whatever monies the individual is given to use toward recovering from the injuries and getting life back on track, will be *cut nearly in half*.

**5. THE INJURED WILL RECEIVE INADEQUATE, PERHAPS EVEN INCOMPETENT OR UNETHICAL, MEDICAL TREATMENT**

The injured individual can expect to be directed toward medical professionals who are well-known to the for-profit subcontractors and who have a better relationship with the subcontractors than with the injured individual. This means the injured individual will receive the kind of medical care that makes a for-profit subcontractor happy enough to send that medical professional lots of repeat business over the years, but probably not the kind of medical care that is appropriate for that injured individual.

**6. IF THE INJURED ATTEMPT TO OBTAIN APPROPRIATE MEDICAL TREATMENT, THESE ATTEMPTS WILL BE FRUSTRATING AND QUITE POSSIBLY FUTILE**

If and when the injured individual figures out that the medical professional assigned to the injury is an inappropriate choice, *the injured individual can be forced to fight for months to be assigned to a more appropriate medical professional*, and the individual will continue to suffer until an appropriate medical professional is assigned, if ever. Basically, the individual injured by the Yucca Mountain Project will probably never receive the appropriate medical care unless the individual is extraordinarily resourceful, patient, assertive, and persistent.

**7. THE INJURED WILL BE SECRETLY INVESTIGATED, FOLLOWED AND VIDEOTAPED**

The individual injured by the Yucca Mountain Project can expect that a private investigator or team of private investigators will be assigned to secretly follow the individual around town, spend days or weeks or months right outside of the individual's residence attempting to get a view of whatever goes on inside the injured individual's home, secretly videotape everything the individual does day and night, day in and day out, and search vigorously through any obtainable records including contacting the individual's former employers, checking any existing Criminal Court records, business licenses, the DMV, and even checking Family Court records. *The individual will not be told that this investigation has taken place* and will never find out who, and how many people, viewed these videotapes and records; and the individual will not be allowed to see these videotapes or private investigator reports. The videotapes will be sent to, among others, medical professionals chosen by the for-profit subcontractors. The medical professionals will submit reports. None of this will be revealed to the injured individual.

If this prediction sounds extreme to your Committee, I urge you to contact me for documentation. Four separate private investigators reported to the insurer in my claim over a period of four months and there exist in my file secretly-recorded "surveillance" video tapes, and written reports. My first knowledge of this was when I exercised my

right to review my files in the insurer's offices (a right that has been vigorously contested and obstructed by the insurer); To my shock I found in my file (from the private investigator to the insurer) not the reports and not the video tapes, but a bill for thousands of dollars, and later a report from the physician the insurer sent the videotapes to.

#### 8. **ONCE AN INJURY OCCURS, FROM THEN ON THE INJURED INDIVIDUAL'S TIME AND LIFE WILL BE FILLED WITH HEARINGS AND APPEALS**

In the years following the accident, the individual injured by the Yucca Mountain Project can expect to endure numerous Hearings, and Appeals, with or without adequate legal representation. If the individual is "lucky" the injury caused by the Yucca Mountain Project will be so severe that the individual will be unable to obtain or maintain gainful employment; which will therefore mean that the individual will at least have time to attend all these Hearings and Appeals.

The individual who is able to continue an active life despite the injuries will have to choose to attend to work obligations, family obligations and the other obligations of life, *or, instead, choose to continue attending to the obligations of a claim that will be vigorously protested by corporations that fight injured individuals for a living.*

The individuals injured by the Yucca Mountain Project may find that the obligations of fighting for their rights will result in *divorce*, inability to maintain employment, inability to concentrate on the obligations of an ordinary life, *stress and the additional physical injuries directly attributable to stress*, inability to parent properly including the *inability to afford to take care of one's own children*, inability to pay mounting bills, *eventual poverty* and, in some cases, *the individuals injured by the Yucca Mountain Project will eventually lose their homes*, as occurred in my particular case.

Some individuals injured by the Yucca Mountain Project will give up on fighting for their rights early on, decide to "cut their losses" by agreeing to an inadequate settlement, or even give up without getting any of the settlement they are entitled to by law; *others will fight for years until they've lost everything and may or may not eventually receive somewhat adequate compensation and the other benefits and services they were entitled to by law but which were withheld year after year.*

#### 9. **THE COMMUNITY INCLUDING THE CITY, COUNTY AND STATE WHERE THE INJURED LIVE, WILL HAVE TO BEAR THE FINANCIAL BURDEN OF THE INJURIES**

The community of the individuals injured by the Yucca Mountain Project will find that (because the Yucca Mountain Project, the US Dept of Energy, and the for-profit insurers are determined not to fulfill the obligations mandated by law, policy and ethics) *by default the community will have to mobilize its resources on behalf of the individuals and families.* Cities, counties and states will find themselves coping financially with the aftermath of injuries and deaths caused by the Yucca Mountain Project. It has happened already. It will happen. This is a provable guarantee.

## 10. THE COMMUNITY WILL INCUR HIDDEN AND INCALCULABLE COSTS

The community of the individuals injured by the Yucca Mountain Project will incur hidden costs which may be incalculable. The disruption of lives may rob communities of their previously most productive members, not just when deaths occur, but when individuals who were, prior to the accident and injuries, active participants in the community but who can no longer participate at such levels because their time and energies and spirits and other resources including financial have been drained by the never-ending fight for their rights and the struggle to simply survive. For example, before I was injured by the Yucca Mountain Project I was a foster parent taking care of a child whose only other option was to be institutionalized and who is, to the best of my knowledge at this time, institutionalized at community expense. There are volunteer opportunities too numerous to mention which are generously and happily met by community members every day whose *contributions, once removed from the community because of the failure of the Yucca Mountain Project to take responsibility for the injuries caused by the Yucca Mountain Project, will be removed at inestimable cost to the community.*

## CONCLUSION

I leave it to the vast variety of voices including those of Nevada elected officials, grass-roots organizations all over the USA, business leaders, and individuals from every walk of life and perspective, to address the other concerns about the transportation of the nation's nuclear waste across the highways and railways of this country. From my experience and for the purposes of this particular opportunity to comment and raise concerns, I focus on only one concern about the transportation of nuclear waste to the Yucca Mountain:

*It has been guaranteed by all sides of this controversy that there will be accidents and injuries.* There have already been accidents and injuries. *I have not heard anyone address policies, standards, and compliance monitoring, nor have I heard any agency specifically named which would have the responsibility of implementing these policies, regarding how individuals who will be injured by the Yucca Mountain Project are to be treated, or where the individuals who will be injured by the Yucca Mountain Project can go for help once the worst-case-scenario, an accident in the transporting of nuclear waste across the country to the Yucca Mountain, occurs.*

I have personally spoken with a representative of the Nuclear Regulatory Commission both in public forum and privately, including in correspondence, and *I have raised this question to the OCRWM Concerns office in writing, and I have still not received a clear and reliable answer*, because, apparently, at this point in time there is no answer. Tragically and inexcusably, it will be left to the individuals who are injured by the Yucca Mountain Project and who are injured by the transportation of nuclear waste to the Yucca Mountain Project from locations all over the USA, to *discover that there is no plan and that there never was a plan, for addressing the aftermath of the injuries that are guaranteed to occur.*

The most recent response I have received from the OCRWM Concerns office in writing, is the most alarming response I have ever received, in that it specifically declines to examine the issues raised by stating:

**"With regard to your predictions of how other workers or members of the public will be treated based on your personal experience, we do not believe your workers compensation claim experience provides a reasonable basis for making such predictions. *Consequently, we are not addressing the specific questions enumerated by you regarding that matter.*"**

What if I happened to look into an alleyway and saw there stack upon stack of boxes of paper bursting at every seam, a number of gas containers, and children hiding in the corners playing with matches. What if put two-and-two together and recognized instantly that the authorities should be contacted and requested to treat this situation as an emergency. What if the authorities responded: "With regard to your predictions... based on your personal experience, we do not believe your... experience provides a reasonable basis for making such predictions. Consequently, we are not addressing the specific questions enumerated by you regarding that matter." We all know the disaster that would result, and it would give me no pleasure whatsoever to be able to report to the media that I tried to warn the authorities but they refused to respond.

Indeed, the response of OCRWM raises an issue I didn't have when I first forwarded my concerns: With its response to me, OCRWM sets a dangerous precedent. OCRWM decides which concerns to address and which concerns to ignore, based, not on whether the issue should be addressed, but based on the experience level of the individual raising the concern, and OCRWM's unilateral assessment of whether the experience level of the individual raising the concern meets some arbitrary measure.

Please be advised that in the interest of making my written statements as clear as possible, I requested the assistance of Merle Long, who helped me by editing Item "1" above. Mr. Long is currently an Access Technology Specialist in Las Vegas, and has a union labor background including having held a member-elected seat on the General Executive Board Committee for Operator Services in San Francisco, California.

Overwhelming evidentiary documentation is available upon request. This concludes my comments.

Robin A. Drew